

July 9, 2003



Marlene H. Dortch  
Secretary  
Federal Communications Commission  
TW-A325  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Notice of *Ex parte* Presentation  
MB 02-235

Dear Ms. Dortch:

On July 8, Andrew Jay Schwartzman of the Media Access Project met with Susan Eid, Legal Advisor to the Chairman to discuss the proposed transfer of control of Hispanic Broadcasting Corporation.

Mr. Schwartzman took the position that the Commission should treat Spanish language radio as a separate market for purposes of this case, and that leads to the conclusion that the transaction is contrary to the public interest. He made two specific points.

First, Mr. Schwartzman discussed the extraordinary and insuperable barriers that any new entrant would face in trying to compete with the combined Univision/HBC entity. Unlike English language markets, a competitor would face great difficulty in making the audience aware of its service, as Univision would control the principal means of promoting and advertising a new radio station, *i.e.*, Spanish language broadcasting. Moreover, Clear Channel, which would be one of the largest shareholders of the combined companies, is the largest owner of outdoor advertising, which is the second most important advertising medium used for this purpose.

Mr. Schwartzman then turned to how the Spanish language market should be treated from a diversity perspective. He noted that under the FCC's 1981 radio deregulation decision, broadcasters were freed from the obligation to serve every enumerated audience segment in their community. They were, however, expected to demonstrate that they have met the problems needs and interests of whatever niche audience segment they might have chosen to serve. Plainly then, the Commission treated Hispanic other minority communities as distinct for this purpose as well.

In response to questioning from Ms. Eid, Mr. Schwartzman explained that he thought it was entirely logical for the Commission to conduct an analysis of the impact of a transaction on particular segments of the community while still including the same stations in voice counts and other analyses of the entire market. Thus, the question of how many stations a particular broadcaster might own in a market would be a separate issue from whether it held excessive power within the Spanish language submarket.

Sincerely,

Andrew Jay Schwartzman  
President and CEO

cc. Susan Eid